



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
-----------------	-------------	----------------------	---------------------	------------------

10/092,067

03/05/2002

Machelle Daniels

Y01-066

7848

7590 07/06/2007
Kenneth W. Float
2095 HWY. 211 NW, SUITE 2-F, #356
BRASELTON, GA 30517

EXAMINER

GRAY, PHILLIP A

ART UNIT	PAPER NUMBER
----------	--------------

3767

MAIL DATE	DELIVERY MODE
-----------	---------------

07/06/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/092,067

Applicant(s)

DANIELS, MACHELLE

Examiner

Phillip Gray

Art Unit

3767

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 04 January 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-14 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

This office action is in response to applicant's communication of 1/4/2005. Currently new art has been applied to the rejection. Currently claims 1-14 are pending and stand rejected below. This office action is non-final.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 2, 4, 6, 8, 10, and 12-14 are rejected under 35 U.S.C. 102(b) as being anticipated by Adair (U.S. Patent 4,417,710). Adair discloses a combined surgical instrument and tube holder with a tubing cuff (as in figures 2-6) for securing a tube to a limb of a patient comprising a layer of porous cloth-like material (38), a layer of foam rubber (36), a reclosable fastner (hook and loop element 44 or element 24), adhesive layer (evidenced by the fact that the foam layer is connected to the cloth like layer 36 to 38) and durable backing layer (40). Further it is examiner's position that the layer 38 would, under a broad reasonable interpretation, be a micro porous hypoallergenic film layer material. Examiner is of the position that Adair discloses that a layer of hook material (side near 40,42) having hooks thereon attached to one end of the porous cloths-like material on the same side and adjacent to the layer of porous foam rubber,

Art Unit: 3767

and a layer of loop material (side by 36 and 44) which is attached to an opposite end of the porous cloth-like material on a side that is opposite to the hook material (as in figure 6). Examiner if also of the position, under a broad reasonable interpretation, that the Adair device is fully capable of the functional/operational limitations of the foam rubber layer placed against the patients limb, and secured by the reclosable fastener (such as by element 24/42 or piece P) and the tube would be laid around on exposed adhesive (see paragraphs column 3) and the adhesive layer (previously id above) would be wrapped around the tube to secure it to cuff in figure 6 and 2.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 3, 5, 7, 9, and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Adair.

Concerning claims 3 and 5, Adair discloses the claimed invention except for the micro porous film material comprising hypoallergenic non woven polypropylene material. It would have been obvious to one having ordinary skill in the art at the time the invention was made to form the micro porous film material to comprise polypropylene material, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as

a matter of obvious design choice. In *re Leshin*, 227 F.2d 197, 125 USPQ 416 (CCPA 1960). These materials would provide a cost effective, durable, and performance efficient material to construct the layer from.

Concerning claims 7 Adair discloses the claimed invention except for the foam being non-skid. It would have been obvious to one having ordinary skill in the art at the time the invention was made to form the foam layer to be non-skid, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. *In re Leshin*, 227 F.2d 197, 125 USPQ 416 (CCPA 1960), and this would aid the device in securing the tube to the device.

Concerning claims 9, and 11 Adair discloses the claimed invention except for the hook and loop materials comprising a non-woven loop, or a knitted loop and hook material. It would have been obvious to one having ordinary skill in the art at the time the invention was made to form the hook and loop materials of a non-woven loop, or a knitted loop and hook material, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. *In re Leshin*, 227 F.2d 197, 125 USPQ 416 (CCPA 1960, and these two Velcro (hook and loop) configurations would provide the device with varying strength attachment securing means and provide a cost effective, durable, and performance efficient material.

Conclusion

Art Unit: 3767

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Phillip Gray whose telephone number is (571) 272-7180. The examiner can normally be reached on Monday through Friday, 8:30 a.m. to 4:30 p.m. EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kevin Sirmons can be reached on (571) 272-4965. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


PAG

KEVIN C. SIRMONS
SUPERVISORY PATENT EXAMINER

